IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2056 OF 2006

Sau.Rakhamabai R. Shinde .
(Since deceased through her L.R.) .
Sau.Usha a. Sandbhor ....Petitioner
V/s.
Shankar M. Kurhade & Ors. ....Respondents

Mr.Vilas B. Tapkir for the Petitioner.

Ms.Swati Paradkar for Respondent No.2.

CORAM : R.M. SAVANT, J.
DATED : 7TH JUNE, 2007.

P.C. :

1. This Petition filed under Article 227 of the Constitution of India impugns the order dated 17.10.2005 passed by the learned J.M.F.C., Khed. By the said order, the Petitioner's application for setting aside the abatement and for bringing her on record as the heir of the original Plaintiff - Rakhamabai Shinde, came to be rejected.

2. The original Plaintiff - Rakhamabai Shinde has filed R.C.S. No.78 of 2003 for declaration and injunction. The said Rakhamabai Shinde died on 24.8.2004. The Petitioner thereafter filed the application which came to be rejected by the impugned

order.

3. The learned Judge while rejecting the said application, has held that the Petitioner has failed to prove her relation with the deceased Plaintiff. The Petitioner has no evidence in her possession supporting her claim as being a legal heir of the original Plaintiff. It is stated by the Respondents herein that the Petitioner claims to be the daughter of the brother of the original Plaintiff. The trial Court has also doubted the Petitioner's locus vis-a-vis the subject matter of the said suit. The trial Court has while rejecting the said application has observed that if the Petitioner has any right qua the suit property, she can adopt independent proceedings for the same.

4. I do not find any illegality or infirmity committed by the trial Court, in that view of the matter, no case is made out for interference under Article 227 of the Constitution of India.

5. The Petition is therefore dismissed.

(R.M. SAVANT, J)